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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,655	08/31/2001	Patrick Hilt	50R4741	1795

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Intellectual Property Department  
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EXAMINER

CURCIO, JAMES A F

ART UNIT PAPER NUMBER

2122

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/944,655	Applicant(s) HILT ET AL.	
	Examiner James Curcio	Art Unit 2122	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 1-20 of application 09/944655 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example, claim 1 contains the language "means for updating said first set of data to said second computing device for processing first set of data into a second set of data" which is ambiguous and unclear. One alternative meaning is that the "means for updating" is "for processing first set of data into a second set of data." A second alternative meaning is that the "said second computing device" is "for processing first set of data into a second set of data." A third meaning is that both the "means for updating" and the "said second computing device" are "for processing first set of data into a second set of data."

"Updating said first set of data to said second computing device" is also ungrammatical.

For the remainder of this office action, Examiner interprets the limitation "updating said first set of data to said second computing device for processing first set of data into a second set of data" to be both "means for uploading said first set of data

to said second computing device" and a "means for updating said first set of data for processing first set of data into a second set of data."

Another example is that in claim 2 it is unclear whether "said computer program" refers to "a networking computer program" or the "computer program" in the preamble.

For the remainder of this office action, Examiner interprets that "said computer program" is distinct from "said networking computer program."

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (US006374177B1).

As per claim 1, Lee et al discloses a computer program comprising the following:

Means for downloading a first set of data to a first computing device (abstract;

Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text;

Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig.

5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to

"remotely programmable, microcomputer controlled multimedia device in a vehicle with

a wireless IP address for Internet access” and “an Internet gateway network that provides programming, information and Internet access to the multimedia device”));

Means for directing a networking computer program to second computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “an Internet gateway network that provides programming, information and Internet access to the multimedia device” and “one or more remote programming devices”));

Means for connecting to said second computing device and allowing said second computing device control said networking computer program (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “an Internet gateway network that provides programming, information and Internet access to the multimedia device” and “one or more remote programming devices”)); and

Means for updating said first set of data to said second computing device for processing first set of data into a second set of data (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for

Internet access”, “an Internet gateway network that provides programming, information, and Internet access to the multimedia device”, “one or more remote programming devices”, “automatically tune to comparable station formats when a vehicle travels out of an area where the existing stations are known to a listener”, and “automatically tune to another station or recorded broadcast playing the same program or at least the same program type”)).

As per claim 9, Lee et al discloses a method of bi-directional communication comprising the following:

Supplying a computer program to any computing device having network capabilities (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for Internet access” and “Internet gateway network that provides programming, information and Internet access to the multimedia device”));

Communicatively connecting a download device to a first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24

("remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for Internet access" and "Internet gateway network that provides programming, information and Internet access to the multimedia device"));

Downloading a first set of data to said first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to "remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for Internet access", "an Internet gateway network that provides programming, information, and Internet access to the multimedia device", "one or more remote programming devices", "automatically tune to comparable station formats when a vehicle travels out of an area where the existing stations are known to a listener", and "automatically tune to another station or recorded broadcast playing the same program or at least the same program type"));

Downloading a second set of data to said first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to "remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for Internet access", "an Internet gateway network that provides programming, information, and Internet access to the multimedia device", "one or more remote programming devices", "automatically tune to comparable station formats when

a vehicle travels out of an area where the existing stations are known to a listener”, and “automatically tune to another station or recorded broadcast playing the same program or at least the same program type”)).

As per claim 17, Lee et al discloses a system for bi-directional communication comprising the following:

A download device communicatively connected to a first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for Internet access” and “an Internet gateway network that provides programming, information and Internet access to the multimedia device”));

A second device communicatively connected to said first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “remotely programmable, microcomputer controlled multimedia device in a vehicle with a wireless IP address for Internet access”, “an Internet gateway network that provides programming, information and Internet access to the multimedia device”, and “one or more remote programming devices”)); and



A computer program stored on said first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24 (emphasis added to “an Internet gateway network that provides programming, information and Internet access to the multimedia device” and “one or more remote programming devices”)).

As per claim 3, Lee et al discloses that said first computing device is an XM radio receiver (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 4, Lee et al discloses that said second computing device is a network server (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 5, Lee et al discloses that said networking computer program is a browser (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 6, Lee et al discloses that said first set of data is some bookmark identification information from an XM radio broadcast (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 7, Lee et al discloses that said second set of data is complete bookmark identification information from an XM radio database (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 8, Lee et al discloses that the computer program further comprises means for downloading said second set of data from said second computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 10, Lee et al discloses the step of communicatively connecting said first computing device to a second computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and

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associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 11, Lee et al discloses that the method of bi-directional communication further comprises directing a networking computer program to said computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 12, Lee et al discloses that directing said networking program further comprises controlling said networking computer program by said computer program (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 13, Lee et al discloses that communicatively connecting further comprises transmitting first set of data from said first computing device to said second computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 14, Lee et al discloses that communicatively connecting further comprises transmitting said second set of data from said second computing device to said first computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 15, Lee et al discloses that controlling said networking computer program further comprises controlling said first computing device by said second computing device (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 16, Lee et al discloses that transmitting said first set of data further comprises communicatively connecting said second computing device with a database and processing said first set of data into said second set of data (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 18, Lee et al discloses that said first computing device contains a networking computer program (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 19, Lee et al discloses that said first computing device further contains a file system comprising of at least a first data set (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

As per claim 20, Lee et al discloses that said second computing device is communicatively connected to at least one database from which said first data set is processed into a second data set (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lee et al (US006374177B1).

Lee et al discloses the following:

Means for downloading a first set of data to a first computing device (see claim 1 rejection);

Means for directing a networking computer program to second computing device (see claim 1 rejection);

Means for connecting to said second computing device and allowing said second computing device control said networking computer program (see claim 1 rejection);  
and

Means for updating said first set of data to said second computing device for processing first set of data into a second set of data (see claim 1 rejection).

Additionally, Lee et al discloses that said computer program is a browser-plug in (abstract; Fig. 1 – elements 10, 20, and associated text; Fig. 2 – element 20 and associated text; Fig. 3 – element 30 and associated text; Fig. 4 – element 300 and associated text; Fig. 5 – elements 404, 406, and associated text; col. 5:44 to col. 8:24).

Alternatively, Lee et al fails to expressly disclose that said computer program is a browser-plug in.

However, official notice is taken that browser-plug ins are well known in the computer art (e.g. Real Player, Microsoft Windows Media Player or Win Amp).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee et al by including a browser-plugin in as the computer program.

One of ordinary skill in the art would have been motivated to do so in order to download and automatically play streaming audio or video broadcasted media in a browser.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Curcio whose telephone number is 703-305-8887. The examiner can normally be reached on Tuesday through Friday from 7 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached on Tuesday through Friday from 7:30 am to 4:30 pm and on alternate Mondays from 7:30 am to 4:30 pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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**ANTONY NGUYEN-BA**  
**PRIMARY EXAMINER**